IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 18509 of 2004

Between:

N. Sivanandam, S/o Rajaiah,aged 53 years,

Reddy colony, Hanumakonda,
Warangal District.

..... PETITIONER

AND

1 A.P.S.R.T.C, Rep. by its Vice-Chairman and Managing Director,
Musheerabad, Hyderabad.
2 The Depot Manager, APSRTC, Jagityal Depot, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or directions more in the nature of Writ of Mandamus, declaring the Office Order No. 02/95(127)/97 JGTL dated 16-9-1997 as illegal and arbitrary and set aside the same with all consequential benefits including arrears of pay.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondents: SMT.P.RAJANI, STANDING COUNSEL

The Court made the following:

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ORDER:

The petitioner is working as a Conductor in the respondent Corporation. He was charged for an irregularity in collecting fare and issuing tickets to the passengers. He submitted his explanation. The 2nd respondent passed an order on 16.09.1997, without conducting any enquiry, by imposing a penalty of deferment of annual increment for a period of one year, which shall have effect on future increments of the petitioner.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the 2nd respondent is illegal and to direct the respondent to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of one increment with cumulative effect, imposed by the respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of one increment without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increments on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Vice Chairman and Managing Director,

APSRTC, Musheerabad, Hyderabad.

2. The Depot Manager, APSRTC,

Jagityal Depot, Karimnagar District

3. Two CD copies